
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 4

The Workplace Parking Licensing (Scotland) Regulations 2022

PART 3

Examinations

Examination of proposals

6.—(1) Where an initiating party intends to appoint a reporter to carry out an examination under section 75(2) of the Act in relation to a proposal to make a scheme, that party must give notice in writing of its intention to—

- (a) the Scottish Ministers, if the initiating party is the local authority proposing to make the scheme,
- (b) the local authority, if the initiating party is the Scottish Ministers,
- (c) any person who responded to the consultation carried out under section 73(1)(b) of the Act.

(2) A notice of intention under paragraph (1) must be accompanied by—

- (a) a statement setting out full details of the matters the initiating party considers require to be taken into account by the reporter in examining the proposal to make the scheme,
- (b) a statement as to which of the procedures specified in section 75(3) of the Act the initiating party considers is appropriate in the circumstances,
- (c) all documents, materials and evidence upon which the initiating party intends to rely in the examination,
- (d) copies of the documents required under section 73(1)(a) of the Act, and the report required under section 73(1)(c) of the Act,
- (e) where the statement referred to in sub-paragraph (b) indicates that—
 - (i) a hearing under section 75(3)(b) of the Act is sought, a list of any persons whom the initiating party wishes to provide a written statement for the purposes of the hearing, or
 - (ii) an inquiry under section 75(3)(c) of the Act is sought, a list of any persons whom the initiating party wishes to give evidence at the inquiry, any matters which those persons are particularly to address,

and any relevant qualifications those persons have to do so.

(3) Where the initiating party is the Scottish Ministers, the local authority must, as soon as reasonably practicable after a request to do so by the Scottish Ministers, send a copy of the notice and accompanying information mentioned in this regulation to any person who responded to the consultation carried out under section 73(1)(b) of the Act.

(4) All matters which the initiating party intends to raise in the examination must be set out in the statement referred to in paragraph (2)(a), or in the documents which accompany that statement.

Appointment of reporter

- 7.—(1) A reporter appointed under section 75(2) of the Act must be—
- (a) a member of the staff of the Scottish Ministers, or
 - (b) selected from a panel provided by the Scottish Ministers.
- (2) When appointing a reporter to carry out an examination under section 75(2) of the Act the initiating party must send to the reporter—
- (a) copies of notices sent in accordance with regulation 6(1),
 - (b) copies of everything referred to in regulation 6(2).

Responses to notice of intention to cause an examination to be held

- 8.—(1) The persons referred to in regulation 6(1) may respond in writing to the initiating party's notice within the scope of the examination as set in accordance with regulation 9.
- (2) Responses must include—
- (a) representations setting out full details of the matters which the respondent considers require to be taken into account by the reporter in examining the proposal,
 - (b) a statement as to which of the procedures specified in section 75(3) of the Act the respondent considers is appropriate in the circumstances,
 - (c) where the respondent intends to rely on documents, materials and evidence in addition to the items referred to in regulation 6(2)(c) and (d), copies of the documents, materials and evidence,
 - (d) where the respondent intends to rely only on the documents, materials, evidence, and the statement and report already provided by the initiating party under regulation 6(2)(a), (c) and (d), a list of those items upon which the person intends to rely,
 - (e) where the statement referred to in sub-paragraph (b) indicates that—
 - (i) a hearing under section 75(3)(b) of the Act is sought, a list of any persons whom the respondent wishes to provide a written statement for the purposes of the hearing, or
 - (ii) an inquiry under section 75(3)(c) of the Act is sought, a list of any persons whom the respondent wishes to give evidence at the inquiry, any matters which those persons are particularly to address,and any relevant qualifications those persons have to do so.
- (3) All matters which the respondent intends to raise in the examination must be set out in the representations referred to in paragraph (2)(a), or in the documents which accompany those representations.

Scope of examinations

- 9.—(1) The scope of the examination is to include only—
- (a) the matters identified in the statement referred to in regulation 6(2)(a),
 - (b) any further matters which both the local authority proposing to make the scheme and the Scottish Ministers agree should be within the scope of the examination.
- (2) Matters outwith the scope of the examination that are raised in any response referred to in regulation 8 must be disregarded by the reporter.

Procedure and timetable for examinations

10.—(1) On appointment the reporter must in writing invite the local authority proposing to make the scheme and the Scottish Ministers to identify and agree any further matters as referred to in regulation 9(1)(b) for the purpose of setting the scope of the examination.

(2) The invitation referred to in paragraph (1) must confirm the period within which responses are to be sent to the reporter for the purpose of that paragraph.

(3) The reporter must establish the procedure and timetable for the examination and give written notice to the persons specified in regulation 6(1) of—

- (a) the scope of the examination as set in accordance with regulation 9,
- (b) the fact that responses must—
 - (i) be within the scope of the examination,
 - (ii) comply with the requirements set out in regulation 8,
 - (iii) be sent to the reporter and to all other persons specified in regulation 6(1) within the period specified in the notice,
- (c) how responses may be sent,
- (d) the fact that persons given notice under this paragraph may send comments on any matters raised in the responses to the reporter and to all other persons given notice under this paragraph,
- (e) the period within which any such comments are to be sent.

Opt-in procedure

11.—(1) The reporter may invite, by notice in writing given in accordance with this regulation, the persons specified in regulation 6(1) to confirm if they wish to participate in any further procedure.

(2) The notice given under paragraph (1) is to—

- (a) state that if the person wishes to participate in any further procedure conducted in relation to the examination they must send a notice (an “opt-in notice”) to the reporter to that effect,
- (b) include information as to how the opt-in notice may be given and specify the date (being not less than 14 days after the date on which the notice under paragraph (1) is given) on or before which the opt-in notice must be given to the reporter, and
- (c) inform the person that if they do not give an opt-in notice to the reporter before that date they may lose the opportunity to participate in any further procedure.

Further submissions and information

12.—(1) Before holding an examination the reporter may determine that further written submissions should be made, or further information should be provided, within the scope of the examination.

(2) Where paragraph (1) applies, the reporter may request such further submissions or information and is to do so by giving written notice to that effect to the parties (a “procedure notice”).

(3) A procedure notice is to—

- (a) set out the matters on which additional representations or information is requested,
- (b) specify the date by which such further representations or information are to be sent to the reporter,
- (c) confirm the means by which any party to whom the procedure notice was given may be contacted.

(4) A party who receives a procedure notice must, by the date specified in that notice in accordance with paragraph (3)(b)—

- (a) provide the additional representations or information requested to the reporter,
- (b) provide a copy of that response to the parties.

(5) Within 14 days of receipt of a copy of the response under paragraph (4)(b) any party—

- (a) may send comments in writing to the reporter in reply to that response, and
- (b) must, when doing so, send a copy of such comments to the other parties.

Pre-examination meetings

13.—(1) The reporter may hold a meeting (a “pre-examination meeting”) to consider the manner in which the examination is to be conducted with a view to securing the efficient and expeditious conduct of the examination.

(2) The reporter must give to the parties such written notice of the holding of a pre-examination meeting and of the date, time and manner in which it is to be held, including its location if appropriate, (and any subsequent variation thereof) as may appear to the reporter to be reasonable in the circumstances.

(3) The reporter is to determine the matters to be discussed and the procedure to be followed at the pre-examination meeting.

Determination without further procedure

14. Where the reporter has received the information specified in regulations 6(2), 8(2), and (as the case may be) 10(3)(d) and 12(4) and (5), and considers that no further representations are, or information is, required to enable the examination to be carried out, the reporter may carry out the examination and prepare a report on it without further procedure in accordance with section 75(3) (a) of the Act.

Conclusion on further procedure

15. Where the reporter decides not to carry out the examination in accordance with regulation 14 the reporter must (following any pre-examination meeting conducted in accordance with regulation 13)—

- (a) determine whether to carry out the examination by means of a hearing in accordance with section 75(3)(b) of the Act or by means of an inquiry in accordance with section 75(3) (c) of the Act,
- (b) inform the parties in writing of that determination.

Inspections

16.—(1) The reporter may at any time make—

- (a) an unaccompanied inspection of the area to which the proposal to make a scheme relates, or
- (b) an inspection of the area accompanied by any party notified under paragraph (3).

(2) Where the reporter intends to make an unaccompanied inspection, the reporter must inform the parties of such intention.

(3) Where the reporter intends to make an inspection accompanied by any party, the reporter must give notice of the date and time of the proposed inspection to the parties.

(4) The reporter is not required to defer an inspection if any party referred to in paragraph (3) to whom notice was given is not present at the time of the inspection.

Hearings and inquiries procedure

17.—(1) Schedule 2 specifies the procedure for the conduct of a hearing into an examination under section 75 of the Act.

(2) Schedule 3 specifies the procedure for the conduct of an inquiry into an examination under section 75 of the Act.

Expenses

18.—(1) The reporter may make orders as to the expenses incurred by the parties to the examination.

(2) Orders under paragraph (1) in favour of the Scottish Ministers may include expenses in relation to the administration of the examination, in particular such reasonable sum as the reporter determines in respect of the Scottish Ministers' general staff expenses and overheads.

Report

19. The reporter must—

- (a) provide the parties with a copy of the report prepared under section 75(2) of the Act,
- (b) arrange for publication of the report on the Scottish Ministers' website.

Interpretation of Part 3

20. In this Part and schedules 2 and 3—

“initiating party” means whichever of the parties referred to in section 75(2) of the Act that appoints a reporter in terms of that section,

“party” means—

- (a) the local authority proposing to make the scheme,
- (b) the Scottish Ministers,
- (c) any person who submitted an opt-in notice under regulation 11.